

DE 97-255

**BIRCHVIEW BY THE SACO, INC.**

**Investigation into Quality of Service and Future  
of Water Supply and Distribution System**

**Order Denying Request for Hearing Regarding Rates**

**O R D E R    N O.    23,235**

**June 15, 1999**

On May 18, 1999, the New Hampshire Public Utilities Commission (Commission) issued Order No. 23,218 setting rates for the Receivership of Birchview by the Saco, Inc. (Birchview) and requested that any interested persons submit comments or file a written request for a hearing on this matter no later than June 8, 1999.

On June 3, 1999, Constance L. Holmes filed a written request for a hearing on behalf of E.C. Holmes in accordance with Order No. 23,218. Mrs. Holmes requested a hearing to contest the \$2,154 allowed for recovery from ratepayers. Mrs. Holmes averred that the Commission should have allowed recovery of a significantly greater amount of money billed to Birchview for services rendered by her late husband.

On June 8, 1999, George J. Weigold, a Birchview customer, also filed a written request for a hearing in accordance with Order No. 23,218. Mr. Weigold requested a hearing on the following matters: 1) the reasonableness of the adjusted annual revenue requirement of \$18,988, 2) whether some of the Receiver's expenses should be allocated to entities

other than the ratepayers such as the Commission, the Precinct and the New Hampshire Department of Environmental Services (DES) 3) whether accounts payable in the amount of \$8,833 incurred prior to receivership are legitimate and verifiable, 4) whether the ratepayers should be sheltered from recovery of unpaid, legitimate and verifiable expenses incurred prior to receivership because they should have been paid from the annual revenues received by the utility in the years in which services were rendered by outside vendors, and 5) whether F.X. Lyons should be removed as receiver due to a conflict of interest.

On June 9, 1999, Mrs. Holmes provided Staff with a charge slip verifying \$430 of utility services rendered by her husband to Birchview which had previously been denied for recovery due to insufficient documentation. Mrs. Holmes also identified \$50 of utility service that had been inadvertently included in the \$3,170 of road work denied for recovery from the utility. Staff notified the Commission of the documentation verifying these utility expenses and recommended that the receiver be authorized to pay these sums to Mrs. Holmes. Mrs. Holmes indicated that based on this recommendation she was withdrawing her request for a hearing.

The Commission determined approximately ten years ago that an annual revenue requirement of \$18,988 was just and reasonable for this system. We will not revisit this issue at this time as we are confident given the rate of inflation and the

rate of system deterioration that rates would only increase in the course of a new rate analysis. The only action we have taken is to reallocate that revenue requirement over the current customer base. Therefore, the request to hear that issue is denied.

The issue raised by Mr. Weigold regarding the replacement of FX Lyons as receiver because of an alleged conflict of interest was raised during the April 1, 1999 and April 7, 1999, hearings and will be addressed in the order resulting from those hearings. Therefore, the request to consider that issue is denied.

Mr. Weigold also took issue with Staff's determination of Birchview's legitimate and verifiable accounts payable and Staff's recommendation that ratepayers were responsible for \$8,833 of those expenses based on a Staff audit of the expenses. Although Mr. Weigold was provided copies of the verified invoices and the Staff memorandum supporting the validity of these invoices, Mr. Weigold did not indicate which expenses he objected to, why he objected to paying the particular vendor or why he questioned the validity of the invoices. Given this lack of specificity we will deny the request for a hearing on this issue.

Mr. Weigold's objections to the payment of the receiver for time spent on Precinct business is without merit as none of the invoices approved for payment relates to Precinct business. Moreover, any reasonable expenses incurred by the

receiver on behalf of the Commission or DES are costs related to the operation of the system that are traditionally and justifiably borne by ratepayers for whom those expenses are incurred. Thus, we do not believe a hearing is necessary on this issue.

**Based upon the foregoing, it is hereby**

**ORDERED,** that FX Lyons, Inc., as receiver of the Birchview by the Saco, Inc. Water utility, is authorized to pay, in addition to those accounts payable previously approved, accounts payable due and owing from Birchview by the Saco, Inc. to E.C. Holmes Builder in the amount of \$480,; and it is

**FURTHER ORDERED,** that the Weigold's motion for a hearing in accordance with Order No. 23,218 is DENIED.

By order of the Public Utilities Commission of New  
Hampshire this fifteenth day of June, 1999.

---

Douglas L. Patch  
Chairman

---

Susan S. Geiger  
Commissioner

---

Nancy Brockway  
Commissioner

Attested by:

---

Thomas B. Getz  
Executive Director and Secretary